



Temporary changes to Modern Awards to provide a new Pandemic Leave and increased annual leave flexibility (Australia)

COVID-19 Alert

15 April 2020

By: Nicholas Turner | Clancy King | Emma Corcoran

Last week, Australia's national employment tribunal, the Fair Work Commission, determined to temporarily amend 99 modern awards to provide an entitlement to unpaid 'pandemic leave' and flexibility to take annual leave at half pay. These amendments follow changes made by Parliament to the *Fair Work Act 2009* (Cth) last week, which we summarise here.

The 99 modern awards largely cover most industries, with the exception of awards in the construction, maritime and mining and resources sectors.

Employees (including casuals) covered by any one of the 99 modern awards will be entitled to take up to two weeks' unpaid 'pandemic' leave if the employee is required to self-isolate and is therefore prevented from working. Pandemic leave is also available if the employee is unable to work due to measures taken by government or medical authorities in response to the COVID-19 pandemic.

Access to, and notification to the employer, by the employee will operate similar to current requirements for personal / carer's (sick) leave.

Additionally, an employer and employee may agree that employee can take up to twice as much annual leave at half the rate of pay. The agreement must be recorded in writing and retained by the employer. The rate of pay must include any leave loading and the period of any leave taken in these circumstances is to be taken as normal service for the purposes of service related benefits.

These variations will be in force between 8 April 2020 and 30 June 2020, and will take effect in relation to a particular employee from the start of that employee's first full pay period that starts on or after 8 April 2020.

Please let us know if you have any questions regarding these changes or any other issues arising in relation to COVID-19. We will continue to provide further guidance as the measures imposed to address the COVID-19 pandemic evolve, which will be, along with our previous articles, published here.

AUTHORS



Nicholas Turner
Partner



Sydney | T: +61 2 9286 8000
nicholas.turner@dlapiper.com



Clancy King
Special Counsel
Sydney | T: +61 2 9286 8000
clancy.king@dlapiper.com
